

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JOEL M. FROST, Plaintiff,	:	PRISONER CIVIL RIGHTS
	:	42 U.S.C. § 1983
	:	
v.	:	CIVIL ACTION NO.
	:	1:07-CV-3006-RWS
DARYL QUEEN, Esq., Defendant.	:	
	:	

ORDER

Plaintiff has submitted the instant civil action without submitting the \$350.00 filing fee, and this Court finds that he is not entitled to proceed in forma pauperis. According to 28 U.S.C. § 1915(g), a prisoner is prohibited from bringing a civil action in federal court in forma pauperis “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.”


This Court’s records indicate that Plaintiff has filed at least three previous civil actions while a prisoner, which were dismissed as frivolous pursuant to 28 U.S.C. § 1915A. Plaintiff’s prior prisoner complaints that were dismissed as frivolous include the following: Frost v. White County Bank, et al, 2:00-CV-0181-RWS (N.D.

Ga. Jan. 3, 2001) (initial filing dismissed pursuant to § 1915A); Frost v. White County Bank, et al., 2:00-CV-0094-WCO (N.D. Ga. Aug. 31, 2000) (initial filing dismissed pursuant to § 1915A); and Frost v. Cobb County Superior Court, et al., 1:99-CV-2920-WBH (N.D. Ga. Dec. 8, 1999) (initial filing dismissed pursuant to § 1915A). Furthermore, Plaintiff's allegations that his attorney was ineffective during his state criminal proceedings in 2005 do not show that he is "under imminent danger of serious physical injury." Accordingly, leave for Plaintiff to proceed in forma pauperis is hereby **DENIED**.

According to the Eleventh Circuit, "the proper procedure is for the district court to dismiss the complaint without prejudice when it denies the prisoner leave to proceed in forma pauperis pursuant to the three strikes provision of § 1915(g). The prisoner . . . must pay the filing fee at the time he initiates the suit." Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002).

IT IS THEREFORE ORDERED that the instant action is hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 7th day of January, 2008.



RICHARD W. STORY
UNITED STATES DISTRICT JUDGE